

GUIDELINES FOR THE NEIGHBORHOOD STABILIZATION PROGRAM (“NSP”) FOR THE STATE OF ARKANSAS

The NSP for Arkansas is authorized by the Housing and Economic Recovery Act (“HERA”) (Public Law 110-289), which was signed into law by President Bush on July 30, 2008. Originally introduced as HR 3221, HERA Division B, Title III, establishes the NSP grant under the Emergency Assistance for Redevelopment of Abandoned and Foreclosed Homes heading. The NSP is administered by the Department of Housing and Urban Development (“HUD”) and is considered a special Community Development Block Grant (“CDBG”) allocation. CDBG allocations for Arkansas are administered by statute by the Arkansas Economic Development Commission (“AEDC”). Arkansas is expected to receive \$19,600,000 for the 2009 Program Year, contingent upon application approval by HUD.

Arkansas Development Finance Authority (“ADFA”) has been designated by AEDC as administrator of NSP funds for the State of Arkansas. This designation is by virtue of a Memorandum of Understanding (MOU) executed by AEDC and ADFA dated October 7, 2008.

Eligible Activities:

- Acquisition of abandoned and foreclosed properties:

For purposes of implementing the NSP, an **abandoned property** will be defined as a property abandoned when 1) mortgage or tax foreclosure proceedings have been initiated for that property, 2) no mortgage or tax payment have been made for the property owner for at least ninety (90) days, AND, 3) the property has been vacant for at least ninety (90) days.

For purposes of implementing the NSP, a **foreclosed property** will be defined as a property that, under state or local law, has a completed mortgage or tax foreclosure process. A foreclosure is not considered to be complete until after the property title has been transferred from the former owner under a foreclosure proceeding or transfer in lieu of foreclosure.

For **individual** purchase transactions, all residential property acquired using NSP funds shall be discounted by at least five percent (5%) from the current market appraised value of the property.

For **aggregate** purchase transactions, the discount must be:

- 1) An average of at least ten percent (10%) if a methodology is used whereby the discount is equivalent to the total carrying costs expected to be incurred by the seller if the property were not purchased with NSP funds, provided the discount is at least five percent (5%) OR
- 2) The minimum average discount must be at least fifteen percent (15%).

All properties acquired using NSP funds shall be appraised in conformity with the appraisal requirements of the Uniform Relocation Act (URA) at 49 CFR 24.103 by a licensed appraiser within sixty (60) days prior to an offer to purchase the property. The appraisal must set forth the statutory purchase discount as outlined in NSP regulations. Each NSP awardee shall implement written procedures for establishing an offer to purchase property using NSP funds with such procedures applied consistently to all NSP purchases. Such methodology must result in a discount equal to the total carrying costs anticipated to be incurred by the seller if the property is not purchased using NSP funds. Carrying costs shall include but not be limited to: taxes, insurance, maintenance, marketing, overhead, and interest. Each awardee of NSP funds must maintain sufficient documentation on the acquisition and sale of each property to enable ADFA and HUD to determine compliance with the requirement to sell each property at an amount equal to or less than the cost to acquire and redevelop the property. Section 2301(d)(1) of HERA prevail over section 301 of the Uniform Relocation Act related to NSP-assisted acquisition of foreclosed-upon homes or residential properties. ALL NSP-assisted property acquisitions must be voluntary acquisitions and not acquired through eminent domain proceedings. No acquisition will be allowed for property in excess of FHA limits, currently set at \$200,160.

***** Per NSP regulations, HUD strongly urges every community to consider and include FHA-foreclosed properties in their NSP programs. The nature and location of many FHA-foreclosed properties make them compatible with the eligible uses of NSP funds, the geographic areas of greatest need, and the income eligibility thresholds and limits.

- Rehabilitation of acquired abandoned and foreclosed residential properties

All single family rehabilitation using NSP funds must conform to all applicable laws, codes, and other requirements relating to housing safety, quality, and habitability, and Minimum Design Standards as adopted by ADFA, which can be found on ADFA's web site at www.arkansas.gov/adfa, Publications & Forms, HOME Program, Item No. 1, HOME Program Policy and Operations Manual.

All multi-family rehabilitation performed using NSP funds must conform to all applicable laws, codes, and other requirements relating to housing safety, quality, and habitability, and Minimum Rehabilitation Standards as adopted by ADFA, which can be found on ADFA's web site at www.arkansas.gov/adfa, Publications & Forms, Multi-Family, Item No. 3.

- Demolition of blighted abandoned and foreclosed structures acquired using NSP funds.

For purposes of implementing the NSP, a **blighted structure** shall be defined as a structure exhibiting objectively determinable signs of deterioration sufficient to constitute a threat to 1) human health, 2) safety, and 3) public welfare.

- Reasonable developer's fees related to NSP-assisted housing rehabilitation or construction activities.

For purposes of implementing the NSP, a reasonable developer's fee shall be defined as a fee earned for development of single or multi-family affordable housing which does not exceed ten percent (10%) of total development costs. An NSP proposal may include a developer's fee OR an amount for administration, but not both. The amount of such developer's fee or administration should be clearly indicated in the proposal and included in the total amount of NSP funds requested.

- New construction / reconstruction of single family or multi-family affordable housing for sale or rental to eligible buyers or tenants as defined in NSP regulations. All new construction / reconstruction must conform to all applicable laws, codes, and other requirements relating to housing safety, quality, and habitability as well as construction standards adopted by ADFA.
- Sale of residential properties acquired or acquired/rehabilitated using NSP funds. All NSP-assisted sales shall be in an amount **equal to or less** than the cost to acquire and redevelopment or rehabilitate such home or property to a decent, safe, and habitable condition. Costs associated with boarding, lawn care, or maintenance of the property may not be included in the total cost for purposes of calculating the required reduced sale price. NO profit can be earned on the sale of an NSP-assisted property to an individual as a primary residence. Any profit realized from the sale an NSP-assisted multi-family property will be used to repay the NSP loan.
- Rental of residential properties acquired or acquired/rehabilitated using NSP funds.
- Payment of reasonable down payment and closing cost assistance.
- Interest rate buy-down for fixed-rate first mortgages for eligible purchasers of residential properties acquired, acquired/rehabilitated, newly constructed, or reconstructed using NSP funds, for the purpose of ensuring the purchase is affordable to the eligible buyer.
- General Administration and Planning Activities. Any amount for general administration and planning costs contained in an NSP proposal to ADFA shall not exceed ten percent (10%) of the total approved NSP allocation.

Eligible Applicants:

Entitlement cities, participating jurisdictions, ADFA-designated Community Housing Development Organizations ("CHDOs"), non-profit organizations, for-profit organizations, developers, units of local government in good standing with ADFA, the State of Arkansas, and the applicants' respective regulating agencies.

Eligible Beneficiaries:

All individuals and families assisted using NSP funds shall have incomes which do not exceed one hundred and twenty percent (120%) of area median income, adjusted for family size. This category of incomes is termed by HUD as “low-, moderate-, and middle-income,” and is measured as 2.4 times the current Section 8 income limit for households below 50% of area median income, adjusted for family size.

Not less than twenty-five percent (25%) of NSP funds allocated shall be utilized to provide eligible assistance to individuals and families whose incomes do not exceed fifty percent (50%) of area median income, adjusted for family size. In multi-family developments, the percentage of very low-income units (those units whose tenant’s income is <50% of area median income) must be based on the pro rata percentage of very low-income units to total units in the development.

Time Line for Award and Use of NSP Funds:

ADFA will receive proposals through **Monday, June 1, 2009**. ADFA staff will review, evaluate, score, and make recommendations for approval to ADFA’s Board of Directors for consideration at its regularly scheduled meeting on **Thursday, August 20, 2009**. ADFA will develop and execute NSP agreements, committing NSP funds to the selected applicants by **Thursday, October 8, 2009**. Dependent upon the level of demand and award of NSP funds, ADFA reserves the right to extend the referenced time lines or establish additional funding rounds as necessary.

Applicants may apply for NSP funds in conjunction with ADFA’s standard 2009 Low-Income Housing Tax Credit (**LIHTC**) application process, with such applications due by **Friday, February 6, 2009**, as outlined in ADFA’s 2009 LIHTC Qualified Allocation Plan (QAP).

All NSP activities must be completed and all NSP funds must be fully expended by the applicant within **four (4) years** of the date ADFA executes its NSP grant agreement with HUD, anticipated to occur in early 2009. Therefore, all awardees must complete all NSP activities and expend all NSP funds awarded by early 2013.

Affordability Requirements:

Any activities undertaken using NSP funds for affordable housing must adhere to affordability requirements as follows based on the total amount of NSP funds used for the activity:

- <\$15,000 – Five (5) years
- \$15,000 - \$40,000 – Ten (10) years
- >\$40,000 – Fifteen (15) years

All applicable affordability requirements must be enforceable through deed restrictions, covenants running with the land, or other mechanisms to ensure the full period of affordability is fulfilled.

If NSP funds are used in conjunction with other affordable housing programs, the most stringent affordability requirements shall apply.

For purposes of the NSP, “affordable rents” shall be defined as:

For assisted beneficiaries whose income is \leq 50% AMI – Low HOME rent

For assisted beneficiaries whose income is $>$ 50% - 60% AMI – High HOME rent

For assisted beneficiaries whose income is $>$ 60% - 120% AMI – Fair Market rent

where HOME and Fair Market rents are delineated in the HOME Investment Partnerships Program. It is the intent of NSP activities to ensure homebuyers are not allowed to finance the purchase of NSP-assisted housing through the use of subprime mortgage loans. When using NSP funds in conjunction with other affordable housing programs, the most restrictive rents shall apply.

Selection Criteria:

NSP funds awarded in Arkansas will be allocated on the basis of established need, capacity of the applicant, and quality and content of complete applications received by ADFA by application deadline. As mandated by HERA NSP regulations, priority in Arkansas is given to the counties having the greatest instance of foreclosures. Since NSP funds are intended to stabilize neighborhoods, only applications for eligible activities in existing neighborhoods will be considered. The NSP is not intended and shall not be used for properties that are a part of new developments which were overbuilt as determined by ADFA. ADFA reserves the right in its sole and absolute discretion to determine the level of existing neighborhood destabilization when considering proposals.

Proposal Scoring Criteria:

Need – The proposal must clearly demonstrate the specific areas to be assisted and the rationale for why this area and the specific properties have been or will be negatively impacted by foreclosure activity.

Capacity – The proposal must provide substantial information on the identity, location, and capacity of ALL partners who will be participating in NSP activities. The proposal must also fully demonstrate the ability of the proposer (s) to satisfactorily complete the proposed eligible CDBG activities within specified time lines. The proposer must provide specific examples of successful completion of the same or similar activities using CDBG, HOME or other federal housing resources.

Financing – The proposal must clearly delineate the TOTAL resources expected to be used to complete the NSP activities proposed, including the exact amount of NSP funds requested in the proposal. All funding sources must be documented by firm financial

commitments of the proposed amounts and uses of the funds. Leveraging of additional funds to NSP funds will be considered when reviewing and scoring the proposal.

Quality of plan – The proposal should clearly demonstrate the reasonableness of the proposed activities and funding in accomplishing the desired neighborhood stabilization results. Each proposal must require each NSP-assisted homebuyer to receive and complete at least eight (8) hours of homebuyer counseling provided by a HUD-approved housing counseling agency prior to obtaining a home mortgage loan.

Ultimate neighborhood stabilization goals - The proposal should specifically list units to be assisted and beneficiaries anticipated for assistance by the full scope of the submitted proposal. Include expected neighborhood stabilization benefits, number, type, and location of housing to be assisted, and number of expected eligible persons to benefit from NSP-funded activities.

Time of Performance – The proposal must include a reasonable and realistic time line for implementation of eligible activities, progress on those activities, and completion of ALL activities included in the proposal, including sale or rental of housing assisted using NSP funds.

Reimbursement for Pre-Award Costs:

Per OMB Circular A-87, Attachment B, paragraph 31 and HUD NSP regulations, ADFA may incur pre-award costs as if Arkansas was a new grantee preparing to receive its first allocation of CDBG funds. Therefore, predicated on that authority, ADFA will allow NSP funds to be used to reimburse eligible pre-award costs to entities approved for an award of NSP funds, contingent upon the pre-award costs being included and documented in the applicant's proposal. If the entity is NOT approved for an award of NSP funds, no reimbursement will be allowed. Examples of allowable pre-award costs include, but are not limited to, appraisal fees, costs of a market study, costs of feasibility studies, and preparation of rehabilitation cost estimates.

One-for-One Replacement:

HUD has issued, in conjunction with NSP regulations, an alternative requirement that NSP awardees will **NOT** be required to meet the requirements of 42 U.S.C. 5304(d), as implemented at 24 CFR 42.375, to provide one-for-one replacement of low- and moderate-income dwelling units demolished or converted in connection with activities assisted with NSP funds.

Relocation:

NSP funds are intended ONLY for use in purchasing/improving properties that have been abandoned and foreclosed. As such, most properties are expected to be vacant at the time of appraisal and offer to acquire. Should there be residents in any foreclosed property considered for NSP assistance, potential awardees must follow the residential anti-displacement and relocation plans in effect and outlined in the State's approved Consolidated Plan and all applicable Uniform Relocation Act provisions.

Program Income:

HERA clearly anticipates NSP-assisted activities to produce program income. ADFA will disburse and use program income prior to requesting additional cash withdrawals from the U.S. Treasury. **Any entity awarded NSP funds by ADFA is required to immediately remit any and all program income from NSP-assisted activities directly to ADFA.**

Reporting Requirements:

ADFA is required to submit quarterly performance reports to HUD no later than thirty (30) days following the end of each quarter. Accordingly, all NSP awardees will be required to submit performance information to ADFA by established deadlines conducive for ADFA to meet its reporting requirements. Performance information will include but not be limited to the following:

- 1) Project name
- 2) Project activity
- 3) Project location
- 4) National objective
- 5) Budgeted funds
- 6) Expended funds
- 7) Funding source
- 8) Total amount of any non-NSP funds
- 9) Numbers of properties and housing units assisted
- 10) Beginning and ending dates of activities
- 11) Numbers of low, moderate, and middle-income persons or households benefitting

Affirmatively Furthering Fair Housing:

All awardees of NSP funds shall abide by all certifications to further fair housing. HUD has not waived any portion of federal Fair Housing regulations related to NSP.

Required Certifications:

- 1) Affirmatively furthering fair housing
- 2) Anti-lobbying
- 3) Authority of jurisdiction
- 4) Consistency with State Consolidated Plan
- 5) Acquisition and relocation
- 6) Section 3
- 7) Citizen participation
- 8) Following a HUD-approved Consolidated Plan
- 9) Timely use of funds

- 10) All NSP-assisted persons and families will have incomes not exceeding 120% of area median income and no attempts will be made to recover CDBG funds by the assessment of any amount against properties owned and occupied by low, moderate, and middle-income persons
- 11) The jurisdiction has adopted and is enforcing policies on the prohibition of the use of excessive force
- 12) Compliance with anti-discrimination laws
- 13) Compliance with lead-based paint procedures
- 14) Compliance with all applicable laws

Each applicant (including all members of a development team or persons working on NSP-assisted activities) shall complete and submit a Criminal Background Disclosure Form – Housing. ADFA, in its sole and absolute discretion, may disqualify or refuse to fund proposals based on the results of such criminal background checks in accordance with ADFA’s Criminal Background Check Policies and Procedures. As stated in Section 2304 of HERA, no NSP funds shall be distributed to an organization that has been indicted for a violation under federal law relating to an election for federal office or an organization that employs applicable individuals.

Proposed Form of NSP Assistance:

Single-Family Development Activities – Loan @ 0% interest. Return of program income (defined as the total amount of NSP funds expended less the amount of direct NSP assistance to eligible buyer) to ADFA due upon sale of assisted unit.

Rental Development Activities – Loan @ 0% interest with repayment term to coincide with applicable period of affordability and with balloon provision for refinancing at end of applicable repayment term.

Homeownership Assistance – Forgivable loan @ 0% interest contingent upon eligible homebuyer continuing to own, occupy as principal residence, and maintain the NSP-assisted home for the full applicable affordability period. If the buyer chooses to sell the home, move, or fails to maintain the NSP-assisted home, the buyer shall repay to ADFA the pro rata amount of the NSP assistance for the unexpired term of affordability. The three (3) eligible types of homeownership assistance are 1) downpayment and closing cost assistance, 2) mortgage reduction assistance, and 3) interest rate buy-down of the eligible homebuyer’s first mortgage to a rate 250 basis points below current market, non-subprime interest rates.

Total Amount of NSP Funds Available Per Proposal:

Single Family Activities

The amount of NSP funds necessary to ensure the assisted housing units are affordable to homebuyers whose income is < or = 120% of area median income.

Multi Family Activities`

The amount of NSP funds necessary to ensure the assisted housing units are affordable to tenants whose income is < or = 50% of area median income.

Proposed NSP Budget and Projected Number of Assisted Units:

	<u>AMOUNT</u>	<u>PROJECTED UNITS</u>
SINGLE-FAMILY ACQUISITION / REHABILITATION	\$4,570,000	55
SINGLE-FAMILY NEW CONSTRUCTION	\$4,570,000	55
RENTAL – REHABILITATION	\$3,500,000	40
RENTAL – NEW CONSTRUCTION	\$3,500,000	40
DEMOLITION – SINGLE FAMILY & MULTI-FAMILY	\$1,500,000	54
PROGRAM ADMINISTRATION	<u>\$1,960,000</u>	<u> </u>
TOTAL	<u>\$19,600,000</u>	<u>244</u>